

MINUTES

MEETING OF THE RECLAMATION BOARD

February 16, 2007

A regular meeting (open session) of the Reclamation Board was held on February 16, 2007 beginning at 9:07 a.m. in the Resources Building Auditorium, 1416 Ninth Street Sacramento.

The following members of the Board were present:

Benjamin Carter, President
Butch Hodgkins, Vice President
Lady Bug Doherty, Secretary
Teri Rie, Member

The following members of the staff were present:

Jay Punia, General Manager
Stephen Bradley, Chief Engineer
Dan Fua, Supervising Engineer
Nancy Finch, Legal Counsel
Scott Morgan, Legal Counsel
Lorraine Pendlebury, Staff Assistant

Department of Water Resources staff present:

Tim Kerr
Dave Mraz
Keith Swanson
Jeff Fong
Allan Davis
David Martasian
Jeff Schuette
Michael Parrare

Also present (according to sign-in sheet and cards):

Rex Archer, Citizen of Linda
Lewis Bair, RD 108
Gregg Werner, The Nature Conservancy
Randy Olsen, HDR
Chris Krivanek, HDR
Scott Shapiro, TRLIA
Paul Brunner, TRLIA
John Carlin, River Partners
Dan Efseaff, River Partners
Tom Ellis, Sacramento River West Side Levee District
Tom Foley, CCRG

Shannon Holbrook, U.S. Fish & Wildlife Service
Eric Larrabee, LD 3
Pete Rabbon, National Flood Risk Management Program
Ric Reinhardt, TRLIA
Todd Southam, LD 3
Mark Spannagel, Assemblyman LaMalfa
Wes Tilton
Rick Kuyper, U. S. Fish & Wildlife Service
John Cannon, River Partners

1. ROLL CALL

President Carter brought the meeting to order at 9:07 a.m. All Board members were in attendance, with the exception of Rose Marie Burroughs.

2. CLOSED SESSION – to discuss litigation (Natural Resources Defense Council v. Reclamation Board; Case No. 06CS01228) pursuant to Govt. Code § 11126 (e)(2)(A)

There was no closed session.

3.* APPROVAL OF MINUTES – November 17, 2006

Upon motion by Secretary Doherty, seconded by Ms. Rie, and unanimously carried, the Board approved the minutes as presented.

4.* APPROVAL OF AGENDA

Upon motion by Secretary Doherty, seconded by Ms. Rie, and unanimously carried, the Board approved the agenda with the following changes: (1) on Item 10, the presenter will be Tim Kerr; and (2) Item 16 will be postponed to a future meeting.

5. PUBLIC COMMENTS

There were no public comments.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (Rod Mayer)

Mr. Keith Swanson, Acting Chief of the Division of Flood Management, reported that this has been a below-average water year, impacting long-term water deliveries; that the Levee Evaluation Program is moving forward, rapidly gaining momentum and the Corps of Engineers is actively participating; that there is going to be a series of RD workshops to keep locals informed about ongoing program activities; and that this summer the plan is to begin evaluation of rural levees.

Mr. Swanson addressed issues of environmental conflicts with the ongoing critical erosion repair. He states that there have been unprecedented levels of cooperation with the Resource agencies and with levels of mitigation incorporated into the designs. He reported on work in progress at various locations; on the existing grazing program at various locations; Tisdale sediment removal; 401 compliance; water delivery issues; and land acquisition.

In answer to a question by Secretary Doherty on the timeline for land acquisition to resolve water delivery issues with one area, Mr. Alan Davis stated that a formal offer has been submitted to the owner, which normally takes 45 to 60 days for reply. If the offer is refused, the only alternative plan is to seek a Resolution of Necessity, which is the first step in the Condemnation Process. Mr. Swanson stated that use of a barge to move the spoil would not be economically feasible.

Mr. Swanson then spoke on a problem of funding at Garmire Road Bridge. CalTrans is working to locate and reprogram money for this project. The project may be delayed for a year. In response to a question from Mr. Bair of the Sacramento River West Side Levee District regarding funding for the project, Mr. Swanson stated that he could not speak for CalTrans.

Mr. Swanson mentioned that the Department is scheduling eight public and government workshops on the California Flood Safe Initiative.

7. STATE OF EMERGENCY – BOARD ACTIONS

General Manager Punia reported that staff had worked with DWR staff and sent fourteen operation and maintenance draft agreements to local levee maintaining agencies for the fourteen critical sites. Also, that he will be coming to the Board to request the Board to authorize the General Manager to sign the agreements on behalf of the Reclamation Board.

8. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT (Paul Brunner)

Mr. Paul Brunner, TRLIA Executive Director, gave an update on the Feather River, in particular the Feather from the Bear River to the Yuba River. TRLIA has selected Alternative 2, which is a setback alternative, as the way to proceed. There will be a subcommittee meeting on February 26th to present the schedule, the permits, funding, and the land acquisition process that TRLIA plans to take. TRLIA has moved the second capital call to February 28.

Mr. Brunner stated that TRLIA has been working with the Corps to resolve several issues regarding certification.

Mr. Ric Reinhardt of TRLIA spoke about the detention basin TRLIA is constructing as a requirement for acquisition of CalTrans property on the Yuba River. The Corps confirms Kleinfelder's conclusion that it does not have an adverse impact on the integrity of the levee system.

Mr. Brunner stated that, in the future, TRLIA will do a better job of keeping the Board in the loop regarding their work with the Corps.

Vice President Hodgkins spoke of the need to move forward with improvements before the next flood season. Mr. Brunner responded that he understood the urgency. He is asking for early funding on the project to carry on through the interim period.

CAL-TRANS Detention Basin Report – (Steve Bradley)

Steve Bradley, Chief Engineer for the Reclamation Board, gave a presentation on Phase 4 work along the Yuba River, which involves 5 reaches; only Reach E was permitted under permit

#18095 since not all design drawings were received for the other reaches. He addressed the CalTrans Detention Basin, which Three Rivers is constructing for CalTrans, showing photos of the area and work that has been done. Staff has concluded that the project is an unauthorized encroachment on the flood control system. Under questioning from Board members, Mr. Bradley stated that the problem could be that, once this is turned over to CalTrans (which would include changing the name on the permit), were CalTrans to go in and deepen it more, it could present problems to the levee. If this work were under permit, then the Board would retain control over any future work.

Mr. Rex Archer spoke regarding the infraction to the permit and whether it should be allowed.

After discussion by the Board and Mr. Bradley, it was agreed that it would be best to apply for a permit and have the issue brought back to the Board.

Mr. Rex Archer then gave a presentation, pointing out the area where the levee had broken in 1986, which is an area that TRLIA has not addressed in its permit applications. He believes that the situation is dangerous and the area has a history of flooding and requests that the Board deny any more permits.

Mr. Tom Foley spoke, agreeing with Mr. Archer. He also discussed the issue of money and where it was coming from.

Mr. Brunner responded that he felt TRLIA had done a good job on the levees that they had Worked on.

Vice President Hodgkins believes Mr. Hess of the Corp has addressed the issue and accepts Mr. Hess' findings. However, Mr. Archer disagrees with both Mr. Hodgkins and Mr. Hess.

At this point. Mr. Bradley stated that this is a very complex project and that staff will address it.

9.* CONSENT CALENDAR

There we no Consent Calendar items.

REQUESTED ACTIONS

10.* PROJECT OR STUDY AGREEMENTS

Yuba River Basin Project (Erin Mullin)

Consider approval of a letter to the U.S. Army Corps of Engineers requesting credit under Section 104 of Public Law 99-662 for flood control improvements within the Project area, along the east levee of the Feather River.

Mr. Tim Kerr, Department of Water Resources, gave a status update on a letter to the Corps asking them to review work being performed by local entities to see if work is eligible for credit under the Yuba Basin Project. The Corps was asked to review it for sufficiency so there would be no delay. The Corps asked for further information, which has been provided.

Mr. Ric Reinhardt spoke about the continuing need to secure credit for the work the State of California and Three Rivers has done in RD 784; he wants to make sure that those expenditures are ultimately creditable towards the federal project.

As there is a tight time frame involved, General Manager Jay Punia asked that the Board give him the delegation to sign the letter when completed and not miss the opportunity to seek Section 104 credit.

After the lunch break, at which time the Members read the draft letter, a vote was taken. Upon a motion by Member Rie, seconded by Secretary Doherty, and unanimously carried, the Board approved the delegation to General Manager Punia to sign the letter.

11.* PROPERTY MANAGEMENT

There were no Property Management items.

12.* ENFORCEMENTS

There were no Enforcement items.

13.* APPLICATIONS

Application No. 17659-A, River Partners, Glenn County (Scott Morgan/Dan Fua)

Consider Application No. 17659-A to plant mixed riparian forest, elderberry and woodland, valley oaks and savanna, and grassland on 136 acres within the Butte Basin.
(Tabled/continued from January 19, 2007 meeting)

Mr. Dan Fua, Supervising Engineer for the Reclamation Board, started by saying that this application was first brought before the Board in August of 2006, but was tabled until the issues of concern were resolved (i.e. replacing an existing walnut orchard with mixed riparian vegetation including elderberry shrubs, long-term maintenance and a financial plan for the project site, hydraulic impacts, and the loss of tax revenue when the property is transferred to a state or federal agency). Resolution included LD3 and the Department of Water Resources concluding that elderberry bushes will not restrict them from conducting routine maintenance on the levees or levee easements, the Department of Fish and Game expressing their willingness to maintain the site if transferred to them, staff determining, from an updated hydraulic model, that there is no significant hydraulic impact for the project site, and the inclusion of special conditions in the permit.

The special permit conditions require River Partners to enter into an agreement with the Board to ensure that continued maintenance of the project site is done, River Partners, or the individual who takes over the site, is to restore the site prior to the transfer of the property, River Partners is to restore the site a year before the Safe Harbor Agreement expires, and they are to contribute a dollar amount equivalent to the tax loss to address the loss of funding when the property is transferred to a government agency.

Much discussion followed with elderberry, maintenance, funding and hydraulic questions from Board members, concerns and objections raised by Mr. Dan Efseaff, a restoration ecologist

with River Partners, Mr. Tom Ellis, President of West Side Levee District, Mr. Mark Spannagel with Assemblyman LaMalfa's Office, Mr. Eric Larrabee, trustee of Levee District 3, and Mr. John Carlin, President of River Partners. There was also information presented by Chief Engineer, Stephen Bradley, Ms. Shannon Holbrook, Biologist with the Sacramento Fish and Wildlife Service, explaining the Safe Harbor Agreement, and Legal Counsel to the Board, Scott Morgan.

After lunch, discussion continued between Board members, staff, and previous speakers. After Board President, Ben Carter, asked where the Board wanted to go at this point, Vice President Hodgkins proposed a motion to approve the permit with the stipulated changes to the special conditions in the permit. There was no second, which resulted in the motion failing. Secretary Doherty then proposed a motion that the Board deny the permit. The motion was seconded and Board President Carter asked for General Manager Punia to call the roll. The motion to deny the permit failed, and the issue was tabled for future action.

14.* PERMIT ACTIONS

There were no Permit Actions.

INFORMATIONAL BRIEFINGS

15. National Flood Risk Management Program *(Pete Rabbon, Program Director National Flood Risk Management Program, USACE)*

Mr. Pete Rabbon of the National Flood Risk Management program gave a presentation on some of the things that are happening at the federal level on flood risk management issues. The Corps of Engineers started their Flood Risk Management Program in May of 2006, with the idea of taking what they have in their organization and making it work better by integrating and synchronizing their districts and headquarters to make sure the left hand knows what the right hand is doing. The Corps wants to have accurate floodplain information for the public, address aging infrastructure, increase public awareness of flood risk; and improve their capabilities to truly deliver projects. They will work closely with FEMA, ASFPM and NAFSMA on flood issues. He spoke of levee certification and the fact that the Corps and FEMA have different certification levels and the need to coordinate certification procedures; inventory assessments, with a national levee database; that there are various lists showing differing levels of certification; legislative funding for projects; the need for consistency for inspections; and trees on levees, and what, specifically, that might mean along the Sacramento River.

He then addressed the issue that the State is the common entity to the several federal agencies and stressed that California is in a good position in that it now has money to spend on its levees and should use that fact to push ahead to get federal money since the State has the matching funds.

There were some comments from Board members, and Chief Engineer Bradley pointed out that the system the Board regulates or provides assurances for is not a FEMA-compliant system.

Mr. Wes Tilton then questioned how houses on levees are viewed, as opposed to just trees on levees. Mr. Rabbon answered that Discovery Bay did not fall within the federal program.

16. Evaluation of Murphy Slough Property for Establishment of Valley Elderberry Longhorn Beetle (VELB) Mitigation Sites *(Jeff Schuette)*

This item has been postponed.

17. RD 800 Subventions Claim *(Dave Mraz)*

Dave Mraz, Department of Water Resources, explained that the Delta Levee Subventions Program is intended to reduce the risk of flooding to Delta Islands, providing grants of State funds to RDs to offset the costs of maintaining and improving levees within the Delta. Byron Tract has been in the subventions program for 27 years and has adopted a standard of the Hazard Mitigation Plan, with a long-term target for maintenance. These levees are non-project levees and are not part of the plan of flood control. Mr. Mraz has taken a look at the levees and believes they are up to a very nice standard, and that the money has been well spent and used for the intended purpose, which is to reduce the risk of flooding on the Byron Tract.

Under questioning from Vice President Hodgkins, Mr. Mraz stated that the beginning of RD 800's levee system is at Discovery Bay. Mr. Mraz also stated that he believes the genesis of the Delta Subventions program was over concern about how the failure of Delta levees could potentially affect the delivery of water; the requirement being that RDs develop a long-term standard and work to the best of their ability to get there. The Hazard Mitigation Plan came into being in the early 1980's after FEMA looked at the Delta and stated that, in order to qualify for future FEMA funds, there should be a minimum HMP level.

In answer to a question by President Carter, Mr. Mraz stated that the subventions program covers only 9.7 miles and that it is up to the RD to choose which levees since they are responsible for the levees. The only criteria for the HMP is that the levees be within the Delta.

Mr. Wes Tilton then spoke, questioning how all the levees in RD 800 should be maintained, not just the 9.7 under the subventions program.

18. Strategic Plan

Vice President Hodgkins presented his preliminary draft of the Strategic Plan to the Board and invited all Board members, staff members, and members of the public to read it and then give

the Board their feedback. After some discussion as to whether to discuss the Strategic plan at the same workshop as the Hydraulic discussion, it was agreed that the Executive committee would decide at their next meeting if there would be time to do both items at the workshop.

There was also discussion regarding trying out listing items on the Agenda as "timed" items. The general feeling is that this will take some practice, and it was agreed that the Board would try timing items at future meetings.

BOARD REPORTS

19. BOARD COMMENTS AND TASK LEADER REPORTS

Vice President Hodgkins thanked staff for taking the time to attend meetings in Yolo County regarding an integrated regional water management plan, which includes some flood control.

President Carter asked Vice President Hodgkins to represent the Board at a press briefing sponsored by Congresswoman Matsui's office on February 21st regarding FEMA certification of the Pocket Area levees.

20. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

General Manager Punia reported on the number of permits that staff is working on and provided the Board with a listing of these permits, on recruitment efforts for the Senior Engineer position, on a meeting and tour with the River Islands people for Deborah Barnes of the Attorney General's office, and on an upcoming workshop prepared by David Ford's consulting firm.

21. FUTURE AGENDA

Staff is trying to accommodate SAFCA regarding their application for the Natomas Cross Canal Encroachment Permit and Natomas levee improvements. Informational briefings may include TRLIA Hydraulic impact analysis, Global Climate Change, and the Strategic Plan.

22. ADJOURN

President Carter adjourned the meeting at 4:23 p.m.

Dated:_____

Maureen Doherty
Secretary

The foregoing minutes were approved:

Benjamin F. Carter
President